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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,175	04/27/2000	Wataru Matsumoto	2611-0125P	2265
7590 12/27/2007 Birch Stewart Kolasch & Birch LLP P O Box 747 Falls Church, VA 22040-0747				
EXAMINER HARPER, KEVIN C				
ART UNIT		PAPER NUMBER		
2616				
MAIL DATE		DELIVERY MODE		
12/27/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/559,175

Applicant(s)

MATSUMOTO ET AL.

Examiner

Kevin Harper

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,6-8,10-12 and 14-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4,6,8,10,12,14 and 16-30 is/are allowed.
- 6) ☒ Claim(s) 3,7,11 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

Response to Arguments

Applicant's arguments filed October 31, 2007 concerning the Chow reference have been fully considered and are persuasive. The previous rejection has been withdrawn.

Applicant's remaining arguments have been fully considered but they are not persuasive.

1. Applicant argued that Malcom does not disclose a periodic transmission timing. However, the periodic transmission timing is a frame, where data transmission occurs in an assigned time slot that recurs in each frame (figs. 7-8; col. 8, lines 61-65). The quasi-data transmission time represents the slots assigned to other users (col. 1, lines 36-39).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an

application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 7, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Malcolm et al. (US 5,781,540).

2. Regarding claims 3, 7, 11 and 15, Malcolm discloses a communication system (fig. 1) that sets a periodic transmission timing in accordance with a network transmission path (abstract, lines 1-11) such that each period includes a data transmission time which is suitable for data transmission in the period (note: assigned time slot in the frame - col. 8, lines 57-60) and a quasi-data transmission period which is the time other than the data transmission time in the same period (note: other assigned time slots - fig. 7), where first and second data are transmitted by multiplexing (fig. 9, items 308, 310, and/or 312). The communication system includes a set of received data bits to be transmitted over several periods of the transmission timing (col. 1, lines 35-47) and the data bits are organized into units of symbols (fig. 9) and assigned bit spaces allocated for transmission in such a manner that all the data bits in each of the symbols are transmitted on the network transmission path during the data transmission time of the same period of the transmission timing (fig. 7, access slot, item 300 or 302; fig. 9 - guard time). The data bits of the first data (fig. 9, item 312) are transmitted during a particular period of the transmission timing are organized into symbols that are transmitted on the network transmission path during the data transmission time of the particular period. The data bits of the second data (fig. 9, item 308 or 310) are transmitted during the particular period are organized into one or more symbols which are transmitted on the network transmission path in the portion of the data transmission time of the particular period where the first data has not been assigned. The system includes a receiver (fig. 2, item 54) for receiving the transmitted data that is reproduced (col. 8, line 60 through col. 9, line 10).

Allowable Subject Matter

Claims 2, 4, 6, 8, 10, 12, 14 and 16-30 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached at 571-272-2092. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin C. Harper

December 26, 2007